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Notice of Allowability	Application No.	Applicant(s)	
	09/617,930	SCHMOUTZ ET AL.	
	Examiner	Art Unit	
	Lien T Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to August 5, 2003.
 2. ☒ The allowed claim(s) is/are 1-8, 10-14, 29-44 (renumber as 1-29).
 3. ☒ The drawings filed on 06 August 2000 are accepted by the Examiner.
 4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
 6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jeffrey Wolfson on Nov. 5, 2003.

The application has been amended as follows:

In The Claims:

In claim 1: Line 2, please delete " a mixture of"; please change " which consists essentially of" to --- selected from the group consisting of ---. Line 3, please change the first occurrence of " or a" to a comma; please insert --- of cocoa butter--- after " derivative"; please delete the first occurrence of " thereof"; please change the second " or" to --- and ---.

In claim 6: Line 2, please delete " a refined mixture of". Lines 2-3, please change " which consists essentially of" to --- selected from the group consisting of ---. Line 3, please change the first occurrence of " or a" to a comma; please insert --- of cocoa butter--- after " derivative"; please delete the first occurrence of " thereof"; please change the second " or" to --- and ---. Line 12, please change the period to --- ; and ---. After line 12 please insert --- from about 6 weight percent to 15 weight percent sugar to control hardness of the solid fat and reduce water activity to about .65 or less and wherein the fat imparts a melt-in-the-mouth sensation upon being placed in the mouth.

In claim 7: Line 2, please delete " a mixture of". Line 2, please change " which consists essentially of" to --- selected from the group consisting of ---. Line 3, please change the first occurrence of " or a" to a comma; please insert --- of cocoa butter--- after " derivative"; please delete the first occurrence of " thereof"; please change the second " or" to --- and ---.

Please cancel claim 9.

In claim 39: Line 2, please delete " a refined mixture of solid fat in an amount"; please insert --- of solid fat --- after " weight". Lines 2-3, please change " which consists essentially of" to --- selected from the group consisting of ---. Line 3, please change the first occurrence of " or a" to a comma; please insert --- of cocoa butter--- after " derivative"; please delete the first occurrence of " thereof"; please change the second " or" to --- and ---.

In claim 41: Line 2, please delete " a refined mixture of". Lines 2-3, please change " which consists essentially of" to --- selected from the group consisting of ---. Line 3, please change the first occurrence of " or a" to a comma; please insert --- of cocoa butter--- after " derivative"; please delete the first occurrence of " thereof"; please change the second " or" to --- and ---.

In The Abstract:

Line 1, please delete the phrase " The invention relates to"; please change "a" to --- A ---. Line 2, please insert --- is disclosed --- after " children".

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Tuesday, Wednesday and Friday. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

November 7, 2003

Lien Tran
LIEN TRAN
PRIMARY EXAMINER
Group 1700